COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1707-02
Bill No.: SB 407
Subject: Board, Commissions, Councils; Elderly; Historic Preservation; Housing; Taxation-Revenue General; Tax Credits
Type: Original
Date: March 25, 2011

Bill Summary: This legislation provides sufficient funding to continue the MO Rx prescription drug program.

This legislation will sunset on August 28, 2014.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	$37,397,834	$324,525,182	$324,525,182
Total Estimated Net Effect on General Revenue Fund	**$37,397,834**	**$324,525,182**	**$324,525,182**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Missouri Rx Plan Fund*	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

*Income and cost would net to $0.
Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Sections 100.286, 135.010, 135.020, 135.025, 135.030, 135.352, 208.798 & 253.559:

Officials from the **Department of Health and Senior Services, Missouri State Treasurer** and the **State Tax Commission** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Mental Health (DMH)** assumes there would be no fiscal impact should the sunset be extended to August 28, 2014.

DMH has approximately 42,779 consumers in the Divisions of Comprehensive Psychiatric Services (CPS) and Developmental Disabilities (DD) that are dual-eligibles. DMH assumes should the Missouri RX program sunset August 28, 2011, these 42,779 DMH consumers or the DMH would have to pay for the co-pays for prescription drugs that Missouri RX currently pays. According to DSS data, a dual-eligible uses approximately 7 prescriptions per month (per Table 23 of the FSD/MHD Monthly Management Report). The co-pays that Missouri RX currently pays are $1.25, $2.50, or $3.15. Therefore, DMH assumes that if this sunset is not extended, the cost to DMH consumers or DMH would be greater than $4,491,795 (7 prescriptions x 12 months x 42,779 consumers x $1.25).

ASSUMPTION (continued)

In response to a similar proposal from this year (SB 408), officials from the **Department of Social Services** assume the legislation will not have a fiscal impact to the Department since the legislation is simply extending the program.

Oversight states the Missouri Rx Plan has been appropriated $19,602,166 annually from FY 2007 through FY 2010. Therefore, Oversight assumes a fiscal impact of $19,602,166.

Officials from the **Office of Administration-Budget and Planning (BAP)** assume the proposed legislation should not result in additional costs or savings to the BAP. The legislation does extend the MO Rx program from its current sunset date of August 28, 2011 to August 28, 2014. The legislation proposes the program would be funded through savings realizes as a result of repeal and reenactment of certain tax credits. In FY11, it is expected the MO Rx program will cost approximately $20 million and is currently funded from the Healthy Families Trust Fund (Tobacco) and Mo Rx Fund (Pharmacy Rebates). The legislation also has a severability clause, which would make the legislation null and void if the provisions dealing with tax credits are unenforceable.

This proposal prohibits authorizations of MDFB Infrastructure Development credits. BAP notes redemptions under this program averaged about $20.3M over FYs 2008-2010. The current cap on this program is $10M. Redemptions may decrease by $2M in FY13, and $5.5M in FY14, based on previous redemption trends.

This proposal prohibits authorizations of Low Income Housing tax credits. BAP notes redemptions under this program averaged about $115.5M over FYs 2008-2010. The program cap is related to the amount of federal credits available. Redemptions may decrease by $2.1M in FY13, and $4.9M in FY14, based on previous redemption trends.

This proposal prohibits authorizations of Historic tax credits. BAP notes redemptions under this program averaged about $114.9M over FYs 2008-2010. The current cap on this program is $140M. Redemptions may decrease by $3.2M in FY12, and $14M in FY13, and $35M in FY14, based on previous redemption trends.

The above proposals may reduce associated economic activities. BAP cannot estimate the potential loss of induced revenues as a result of these proposals.

This proposal removes provisions making renters eligible for the Senior Property Tax Credit. Based on data reported to BAP by the in the autumn of 2010, renters redeemed $59.2M in tax

ASSUMPTION (continued)

credits in 2008, and $56.6M in tax credits in 2009. This proposal will increase general and total state revenues by similar amounts in FY12 and beyond.

This proposal makes the remainder of the PTC subject to appropriation. BAP notes this will complicate the administration of this credit, and defers to the DOR for estimated impacts.

Officials from the **Department of Revenue (DOR)** states the following:
Section 100.286: No tax credits authorized under the provisions of this section shall be authorized for issuance on or after the effective date of this act. The provisions of this subsection shall not be construed to limit or in any way impair the board's ability to issue tax credits authorized prior to the effective date of this act, or a taxpayer's ability to redeem such tax credits.

Section 135.010: The definition of "Gross Rent" has been removed from this version of the legislation and references to rented dwellings throughout. Also deleted is the term, "Rent constituting property taxes accrued."

Section 135.020: The section includes the provision that a credit for property taxes be subject to appropriation.

Section 135.025: The proposed change eliminates reference to rent constituting property tax and removes the $750 rent that constitutes property taxes.

Section 135.030: Removes reference to the "rent equivalent" from Subsection 2. The Department will need to make for m changes. The Department and ITSD-DOR will need to make programming changes to various tax systems.

Section 135.352: No tax credits provided under this section shall be authorized on or after the effective date of this act. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to the effective date of this act, or a taxpayer's ability to redeem such tax credits.

Section 208.798: The provisions of sections 208.780 to 208.798 shall be funded by the cost savings realized by the repeal and reenactment of provisions 100.286, 135.010, 135.025, 135.030, 135.352, and 253.559 contained in this act. The provisions of sections 208.780 to 208.798 shall expire on August 28, 2014. The repeal and reenactment of sections 100.286, 135.010, 135.025, 135.030, 135.352, and 253.559, and this section shall not be severable. In the event a court of competent jurisdiction rules that any part of this act is unenforceable, the entire act shall be rendered null and void.

ASSUMPTION (continued)

Section 253.559: Notwithstanding any provision of law to the contrary, no tax credits provided under sections 253.545 to 253.559 shall be authorized on or after the effective date of this act. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to the effective date of this act, or a taxpayer's ability to redeem such tax credits. The Department will need to make for m changes. The Department and ITSD-DOR will need to make programming changes to various tax systems.

Section B: This legislation is deemed an emergency act and will be effective on the Governor's signing of the bill.

DOR assumes a one-time fiscal impact of $13,356 in FY12 to the General Revenue Fund.

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

Officials from the **Department of Natural Resources** states the State Historic Preservation Office is responsible for reviewing and approving rehabilitation work for the state credits. Any changes in the tax credit structure may have an impact on the number or rehabilitation projects the State Historic Preservation Office reviews and approves.

The Department would not anticipate a significant direct fiscal impact as a result of the changes made to the State Historic Preservation Tax Credit.

Unknown fiscal impact due to the uncertainty of whether the General Assembly would continue appropriation from the Economic Development Enhancement Fund.

Officials from the **University of Missouri-Economic & Policy Analysis Research Center (EPARC)** assumes extending the expiration of the Missouri RX program, in and of itself, will allow continued outlays to the program and thereby have no impact on Net General Revenue. However, this legislation's intention is to provide additional funding for the Missouri RX program through the cost savings generated by prohibiting four tax credits. EPARC is only able to estimate the cost savings of the prohibition of one of these four tax credits, the circuit breaker. EPARC estimates that by repealing the provisions that allow renters to receive the circuit breaker tax credit, Net General Revenue will increase by $54 million. EPARC is unable to estimate the additional cost savings impact of prohibiting the historic preservation, low-income housing, and infrastructure development credits.

ASSUMPTION (continued)

Officials from the **Department of Economic Development** assumes this proposed legislation repeals the Historic Preservation Tax Credit program and directs the savings from the elimination of this tax credit to fund the Missouri Rx prescription drug program. The Department assumes an unknown positive fiscal impact over $100,000 as a result of the repeal of the Historic Preservation Tax Credit program. However, under the proposed legislation, savings from the elimination of the Historic Preservation Tax Credit program would be used to offset the cost of the Missouri Rx prescription drug program; therefore this positive impact will be offset by the unknown cost of the Missouri Rx program.

The exact amount of the positive fiscal impact as a result of the repealed Historic Preservation Tax Credit program is unknown due to the uncertainty as to the amount of tax credits that would otherwise be authorized and subsequently redeemed under the eliminated programs in any subsequent fiscal year. The potential positive fiscal impact is shown below based on estimates of the range of potential positive fiscal impact, with the high end of the range represented by the applicable program cap and the low end represented by the average annual authorizations of tax credits under the applicable programs for fiscal years 2007 through 2009. This range reflects the fact although in any fiscal years there is the potential for tax credit authorizations under these programs up to the applicable cap, the actual authorizations are often less than the cap amount.

Savings Based on Average Authorizations (FY07-FY09)-$170,114,756; Maximum Savings Based on Current Statutory Cap-$140,000,000 (FY11).

Officials from the **Department of Economic Development (DED-MHDC)** assumes the fiscal impact associated with this legislation would be the savings to the state associated with eliminating the tax credit. The legislation would prohibit any authorizations after the effective date of the act. The legislation does have an emergency clause.

Of course, there is no fiscal impact associated with tax credits until they are redeemed. However because the Missouri Low Income Housing Tax Credit (MO. LIHTC) has carry forward and carry back provisions, it is impossible to predict with certainty the timing of future redemptions. For purposes of estimating fiscal impact, the projections below assume all credits are redeemed in the year of issuance. The numbers are presented as a range from Unknown to the estimated redemption amount if all the previously authorized credits were issued and redeemed. Several other assumptions were made in order to estimate fiscal impact, and these assumptions are listed below:

ASSUMPTION (continued)

- 100% of authorized credits are eventually issued and redeemed.
- MO. LIHTC developments will continue to follow the same time frames between authorization and issuance as experienced historically.
- No MO. LIHTC will be authorized after FY11 due to passage of the proposal.

FY12: $0; FY13 $0; FY14: Unknown to $12,400,000.

Oversight assumes any income to the state from tax credits not issued and the taxes being collected will start in September of 2012. However, since it is possible for the agency to issue all of the tax credits before this proposal prohibits any more being issued, Oversight will only show the savings in FY 2013. Oversight assumes the future claiming of the tax credits will remain constant over the upcoming fiscal years. Oversight for the fiscal note is showing the amount of increased revenue to the State as being equal to the average amount issued over the last five years.

Oversight will show the increase to net revenues from the property tax credit program as $57 million each fiscal year, FY 2012-FY 2014.

FISCAL IMPACT - State Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE FUND			
Savings - Stopping of the Tax Credits			
Infrastructure	$0	$24,625,997	$24,625,997
Property Tax Credit	$57,000,000	$57,000,000	$57,000,000
Low-Income Housing	$0	$129,432,296	$129,432,296
Historic Preservation	$0	$133,069,055	$133,069,055
Total Savings	$57,000,000	$344,127,348	$344,127,348
Transfer Out - Transfer to the Missouri Rx Plan Fund	($19,602,166)	($19,602,166)	($19,602,166)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**$37,397,834**	**$324,525,182**	**$324,525,182**

FISCAL IMPACT - State Government (continued)	FY 2012 (10 Mo.)	FY 2013	FY 2014
MISSOURI RX PLAN FUND			
Transfer In - Transfer from General Revenue	$19,602,166	$19,602,166	$19,602,166
Costs - Department Social Services Program Costs	($19,602,166)	($19,602,166)	($19,602,166)
ESTIMATED NET EFFECT ON MISSOURI RX PLAN FUND	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2012 (10 Mo.)	FY 2013	FY 2014
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Sections 100.286, 135.010, 135.020, 135.025, 135.030, 135.352, 208.798 & 253.559:

Small business could be affected to the extent small businesses qualifies for one of the tax credits being eliminated.

Small business could be affected to the extent small businesses are involved in the affordable rental housing industry.

The proposed legislation would eliminate Historic Preservation Tax Credits after the effective date of the legislation. With the elimination of this credit, businesses may forgo rehabilitation and redevelopment of commercial and residential historic structures.

FISCAL DESCRIPTION

Sections 100.286, 135.010, 135.020, 135.025, 135.030, 135.352, 208.798 & 253.559:
The proposed legislation prohibits the authorization of tax credits under the historic preservation, low-income housing, and Missouri Development Finance Board Infrastructure Development Fund contribution tax credit programs. The legislation also repeals provisions of the Missouri property tax credit, commonly referred to as the circuit breaker tax credit, which allow renters to receive the property tax credit for rent constituting taxes paid and makes the tax credit program subject to appropriation.

This legislation repeals the sunset provision of the Missouri RX prescription drug program and provides for the expiration of the program on August 28, 2014. This legislation also provides that the Missouri RX program will be funded by the cost savings realized by the prohibition of the tax credits listed above.

This act contains a nonseverability clause as to all provisions of the act. This act contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Mental Health
Department of Health and Senior Services
Department of Social Services
Department of Economic Development
Office of the Secretary of State
Missouri State Treasurer
University of Missouri-Economic & Policy Analysis Research Center
Office of Administration-Budget and Planning
Department of Natural Resources
Department of Revenue
State Tax Commission

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